

STATE OF HAWAII
NOTICE OF AND REQUEST FOR EXEMPTION
FROM CHAPTER 103F, HRS

'14 APR -2 A9:47

To: Chief Procurement Officer

STATE PROCUREMENT OFFICE
STATE OF HAWAII

From: Department of Health/Developmental Disabilities Division
Department/Division/Branch or Office

Pursuant to § 103F-101(a)(4), HRS, and Chapter 3-141, HAR, the Department requests a procurement exemption to purchase the following:


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| 1. Title and description of health and human service(s): Developmental Disabilities Domiciliary Home (DD Dom Home) General Subsidy as appropriated by the Hawaii State Legislature in 2005. Annual required resubmission of Notice of and Request for Exemption from Chapter 103F, Hawaii Revised Statute (HRS). In 2005, Act 168 amended Chapter 321-15.9 HRS to allow the Department of Health (DOH) "to enter into contracts for additional payments to providers of developmental disabilities domiciliary homes." The legislature has appropriated a total of \$1.8 million annually to the Developmental Disabilities Division (DDD) for Developmental Disabilities and Intellectual Disabilities (DD/ID) residential subsidies (e.g., apartment complexes and DD Dom Homes). There continues to be 80+ DD/ID individuals living in DD Dom Homes operated by five (5) agencies. These individuals are unable to live independently and require 24-hour supervision. The DD Dom Homes are licensed by the Office of Health Care Assurance (OHCA) under Chapter 89, Hawaii Administrative Rules (HAR), which requires that continuous 24-hour supervision be provided for individuals with DD/ID. | |
| 2. Provider Name and Address: | The Arc in Hawaii 3989 Diamond Head Road, Honolulu, HI 96816 Arc of Maui County 95 Mahalani Street, Wailuku, HI 96793 Kona Association for Retarded Citizens dba Kona Krafts P.O. Box 127, Kealahou, HI 96750 Opportunities and Resources, Inc. 64-1510 Kamehameha Highway, Wahiawa, HI 96786 Responsive Caregivers of Hawaii 98-1247 Kaahumanu Street, Suite 219B, Aiea, HI 96701 |
| 3. Total Contract Funds: | \$1,550,000 |
| Contract Funds per Year (if applicable): | |
| 4. Reference number of Previous Request for this Service (if applicable): | PEH 13-27 |
| 5. Term of Contract: | Start: 7/1/14 End: 6/30/15 |

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6. Describe how procurement by competitive means is either not practicable or not advantageous to the State:
Under Title 42, Chapter IV, Section 431.51, Code of Federal Regulations (CFR) requires that recipients of services have "...free choice of providers...from any qualified Medicaid provider that undertakes to provide services to them..." The services in agency operated DD Dom Homes are funded by Medicaid Waiver services and individuals must be provided a choice to live in any of the homes that meet state licensure requirements. As a result, the DOH-DDD must contract with all licensed DD Dom Home agencies to insure that the freedom of choice provision is met so it is not feasible to procure this service. The OHCA under the DOH insures that all licensed homes meet the requirements of Chapter 89 of the HAR.
- In addition to conflicting with the "Free choice of providers" provision in the CFR for Medicaid services, the procurement process poses a conflict for guardians of persons with developmental disabilities. Guardians of the person are court appointed and decide where a person will live rather than the DOH. Such decisions are affected by the location of the home, confidence in caregiver ability, other clients in the home, first impressions etc. A procurement process that restricts choice among the five (5) DD Dom Homes designated by the legislature to receive this subsidy would compromise the duties of the legal guardian. The five (5) DD Dom Home agencies are regarded as meeting minimum standards as evidenced by licensure from the OHCA.
7. Describe the reason for the selection of the provider including a description of how the procedure ensured the maximum fair and open competition practicable:
All five (5) licensed DD Dom Home agencies are eligible for an additional payment and the DOH-DDD will notify all agencies of the availability of the subsidy. The DOH-DDD case manager will monitor the needs of the individuals and the provision of Medicaid Waiver services provided in the homes and the OHCA of the DOH will assure certification and licensure requirements of the homes are maintained.
8. Describe the state agency's internal controls and approval requirements for the exempted procurement:
Case Management Branch (CMB) Chief - Oversee health and safety of individuals residing in DD Dom Homes.
OCHA - Oversee compliance with licensure requirements by DD Dom Home agencies.
Contracts Supervisor - Conduct cost analysis and determine rate structure.
9. List the state agency personnel, by position title, who will be involved in the approval process and administration of the contract:
Christie Ferreira, PHAO, DDD, DOH
10. Direct questions to (name & position): Christie Ferreira, PHAO, DDD
Phone number: 808-587-6043
e-mail address: christie.ferreira@doh.hawaii.gov

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I certify that the information provided above is to the best of my knowledge true and correct.



Department Head Signature

4-1-2014

Date

Linda Rosen, M.D., M.P.H.

Director of Health
Typed Name

NOTICE

The chief procurement officer is considering this request for exemption and, if there is good cause, the state intends to exempt the purchase as described in the request. Any inquiries regarding the purchase shall be directed to the contact person noted in item 10 of the request. Any concerns regarding the exemption shall be in writing and received by the chief procurement officer within seven days of the date the notice was first posted. Concerns shall be mailed to: Aaron Fujioka, Chief Procurement Officer, State Procurement Office, 1151 Punchbowl St., #230A, Honolulu, HI 96813.

FOR CHIEF PROCUREMENT OFFICER USE ONLY

Chief Procurement Officer's Comments:

This approval is for the procurement process only. Service providers are required to be compliant with applicable laws, and verified on the Hawaii Compliance Express, if applicable. This award is required to be posted on the Awards Reporting System. If there are any questions, please contact Corinne Higa at 587-4706, or corinne.y.higa@hawaii.gov.

☒ **APPROVED** ☐ **DISAPPROVED** ☐ **NO ACTION**



Chief Procurement Officer Signature

4/22/14

Date

Please ensure adherence to applicable administrative requirements.